

JFW 1638



BARNES &amp; THORNBURG LLP

 11 South Meridian Street  
 Indianapolis, Indiana 46204  
 (317) 236-1313

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group: 1638  
 Confirmation No.: 9526  
 Application No.: 09/486,904  
 Invention: SELECTIVE EXPRESSION OF  
 GENES IN PLANTS  
 Applicant: Snyder, et al.  
 Filed: March 3, 2000  
 Attorney  
 Docket: 3220-66107  
 Examiner: Helmer, Georgia L.

## Certificate Under 37 CFR 1.8

I hereby certify that this correspondence is being  
 deposited with the United States Postal Service with  
 sufficient postage as first class mail in an envelope  
 addressed to Commissioner for Patents, Washington,  
 D.C. 20231

on June 16, 2004  
Garla L. Twyman  
 (Signature)

Garla Twyman  
 (Printed Name)

PETITION TO WITHDRAW HOLDING OF  
ABANDONMENT UNDER 37 C.F.R. § 1.181

Mail Stop Petition  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

A Notice of Abandonment regarding the above-captioned application was sent out on May 25, 2004. However, Applicants complied with a sufficient reply and did not intend to abandon the subject application. Therefore, Applicants respectfully request the Commissioner to withdraw the holding of abandonment for the subject application under 37 C.F.R. § 1.181.

The Examiner has alleged that an Appeal Brief was received but no Notice of Appeal was received in the subject Notice of Abandonment. However, Applicants respectfully submit evidence showing that both the Appeal Brief and the Notice of Appeal were timely received by USPTO:

(1) Exhibit 1 shows that the Notice of Appeal was received by USPTO on Dec 22, 2003, within three month from the Final Office Action dated Sep 23, 2003;

11/08/2010 CKHLOK 00000006 100435 09486904  
 01 FC:1401 330.00 DA

- (2) Exhibit 2 shows that the Appeal Brief and a check for \$330.00 were received by USPTO on Fed 02, 2004;
- (3) Exhibit 3 shows a copy of the filed Notice of Appeal;
- (4) Exhibit 4 shows a copy of the filed Appeal Brief;
- (5) Exhibit 5 shows a copy of the received Notice of Abandonment.

Applicants believe that no fees are required with this response. If any fees are required, the Commissioner is authorized to charge the same to the account of Barnes & Thornburg, Deposit Account No. 10-0435, with reference to our matter number 3220-66107.

Applicant respectfully request the Commissioner to withdraw the holding of abandonment for the subject application as instructed under MPEP § 711.03(c) on page 700-154. If any additional information is required in support of this Petition, please contact me at (317) 231-7253.

Respectfully submitted,

BARNES & THORNBURG LLP



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Bradford G. Addison  
Attorney Registration No. 41,486

Enclosures: Exhibits 1 to 5.

BGA  
Indianapolis, IN 46204  
(317) 231-7253

Exhibit 3

**BARNES & THORNBURG**

11 South Meridian Street  
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(317) 231-7433 Fax

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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GENES IN PLANTS  
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Examiner: Helmer, Georgia

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

on December 19, 2003

(Signature)

Joyce Hamilton  
(Printed Name)


NOTICE OF APPEAL

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450, Alexandria  
VA 22313-1450

Sir:

Applicant hereby appeals the final rejection of claims 9 and 20-25 in the captioned application. The Final Rejection was mailed September 23, 2003. Applicant authorizes the Assistant Commission to charge the amount of \$330.00 pursuant to 37 C.F.R. § 1.17(b) our deposit account No. 10-0435 with reference to our matter number 3220-66107. Applicant also authorizes the Assistant Commission to credit any overpayment or to charge any additional fees that may be due for this notice to our deposit account No. 10-0435.

Respectfully submitted,

  
Jill T. Powlick  
Registration No. 42,088  
Attorney for Applicants

(317) 231-7504  
Indianapolis, Indiana 46204